IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

TUESDAY, THE 18TH DECEMBER 2007 / 27TH AGRAHAYANA 1929

WP(C).No. 36616 of 2007(H)

PETITIONERS:
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1. SAJAN JACOB, S/O. P.C. JACOB,
PROPRIETOR, M/S. FRIENDS ELECTRONICS AND
HOME APPLIANCES, PULLAD, RESIDING AT PUTHETHU
ELEMPURAYIDATHIL, KURIYANNOOR P.O., PIN-689 550,
PATHANAMTHITTA DISTRICT.

2. P.C. JACOB, S/O. CHACKO JACOB,
PUTHETHU ELEMPURAYIDATHIL, KURIYANNOOR P.O.,
PIN-689 550, PATHANAMTHITTA DISTRICT.

3. SANTHOSH JACOB, S/O. P.C.JACOB,
PROPRIETOR, M/S. WISH WASHING POWDER, RESIDING AT
PUTHETHU ELEMPURAYIDATHIL, KURIYANNOOR P.O.,
PIN-680 550, PATHANAMTHITTA DISTRICT.

BY ADV. SRI.P.HARIDAS

RESPONDENTS:
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1. UNION OF INDIA,
REPRESENTED BY SECRETARY, MINISTRY OF FINANCE,
DEPARTMENT OF BANKING, CENTRAL SECRETARIAT,
NEW DELHI-110001.

2. CATHOLIC SYRIAN BANK LTD.,
KURIYANOOR BRANCH, PATHANAMTHITTA DISTRICT,
PIN-689 550.

BY ADV. SRI.P.PARAMESWARAN NAIR,ASST.SOLICITOR
SRI.B.S.KRISHNAN, SC, CSB

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 18/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ANTONY DOMINIC, J.
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W.P.(C) NO. 36616 OF 2007 H
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Dated this the 18th day of December, 2007

J U D G M E N T

The petitioners are defaulters to the respondent Bank. It is stated that two loans were availed of and in one, the present liability is Rs.18,89,571/- and in respect of the other loan, the present liability is Rs.5,33,439/-. It is also stated that in respect of the latter, there is already a decree obtained and in terms of which, the Bank is entitled to realise 12% interest as well. It is stated by the petitioners, who are now faced with securitisation proceedings including an order passed under Section 14 of the Act that they want only a breathing time to discharge the liability.

2. I heard the counsel for the Bank also.

3. It is pointed out by the Bank that since 2006, the petitioners have been defaulters and that till date, there has not been any payment made. It is also stated that in view of the

default made, the Bank's only option was to take coercive action as authorised by the provisions of the Securitisation Act.

4. Irrespective of the controversy and the dispute that is raised by the petitioners, since the petitioners confine their request to an instalment facility to avoid distress sale of the mortgaged property, I am inclined to dispose of this writ petition with the following directions.

1) That the petitioners shall discharge the entire liability to the Bank in six equal monthly instalments.

2) The first instalment will be payable in the 1st week of January, 2008 and the subsequent instalments will be payable on the 1st week of every succeeding month.

3) In the meanwhile, if the petitioners makes payment as above, further proceedings under the Securitisation Act against the mortgaged properties of the petitioners will be deferred. It is clarified that in case the petitioners commits default in paying any one of the instalments, the Bank will be free to proceed without any further notice.

ANTONY DOMINIC, JUDGE.

Rp